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HB 1638 ENVIRONMENTAL QUALITY COMMISSION AND ENVIRONMENTAL IMPACT STATEMENTS

Statement for
House Committee on
Energy, Ecology and Environmental Protection
Public Hearing - 6 March 1981

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HB 1638 has been introduced in short form hence substantive comments on its merits are not possible. We wish to submit, however, for your consideration, a number of recommendations that were developed by the authors of the Hawaii State EIS System Report prepared by the Environmental Center in 1978. (Hawaii State EIS System, Summary and Conclusions; Table 4.) This statement on HB 1638 does not represent an institutional position of the University of Hawaii. If expansion of this bill should be undertaken, perhaps consideration could be given to the following:

1. Assessment Criteria:

In the EIS system report it was recommended that geographical and administrative criteria which cause the EIS system to come into play should be broadened. This would recognize Statewide and Countywide environmental concern as stated in statute and ordinance and include the increasing concern for agricultural lands. The specific recommendation was to amend section 343-5 to include:

- a) actions in the shoreline special management areas;
- b) actions that take place in prime agricultural land;
- c) actions in the Capitol District;
- d) areas designated as having special environmental concern in the county;

- e) a deletion of the clause that allows amendments to county general plans that are introduced by county legislators as being exempt from assessments;
- f) actions that involve a switch in land use classifications from prime agriculture land and conservation land.

We note that HB 1671, currently under discussion before this committee would accomplish the first two of these recommendations.

2. Exemption Provision

Most of the suggestions made in this section of the State EIS report have been enacted. However, there are two key areas in which the law might still be amended:

- a) Authorize emergency exemption. There is a clause in the EQC regulations authorizing exemptions for emergency action but there is no provision in the statutes.
- b) Require public notice and public hearing on agency exemption lists. This might be done simply by adding to Section 343-6 (6) a clause stating that "providing a procedure for public review of these exemptions is established."

3. Appeals

In the preparation of the State EIS report, there seemed to be a general consensus during the consultation stage of the report, that the question of whether an EIS should or should not be required should be subject to an administrative appeal procedure to EQC before having to go to court. The report also pointed out:

- a) that the provision to limit those wishing to contest the acceptance of an EIS only to those areas of the EIS that they commented upon should be broadened. There should be a limitation, but the limitation should be restricted to people who have not commented on the EIS at all;
- b) that in cases where EQC has to make a decision on an appeal that the time limit for initiating a judicial action should be lengthened.

Besides these areas which were pointed out in the EIS study we might suggest amendments in two other areas:

- a) Adding a clause to include the consultation process. This clause should fit nicely into Section 343-5 (b) and (c). The EQC has stated that the consultation process was dropped from the regulations because it was not provided for by statute.

- b) Adding perhaps in the Findings or other appropriate sections the idea that the EIS must look at regional impacts or that agencies must consider these impacts prior to an acceptance of an EIS.